



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

NOTICE OF ALLOWANCE AND ISSUE FEE DUE

HM22/0630

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APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
08/925,326	09/08/97	011	OSWECKI, J	1613 06/30/99
First Named Applicant	LEBAUT,	35 USC 154(b) term ext. = 0 Days.		

TITLE OF INVENTION N-SUBSTITUTED INDOLE-3 GLYOXYLAMIDES HAVING ANTI-ASTHMATIC ANTIALLERGIC AND IMMUNOSUPPRESSANT/IMMUNO-MODULATING ACTION (AS AMENDED)

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
1	24124996/09	514-314.000	V14 UTILITY	NO	\$1210.00	09/30/99

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED.**

**THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.**

**HOW TO RESPOND TO THIS NOTICE:**

- I. Review the SMALL ENTITY status shown above.  
If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:
  - A. If the status is changed, pay twice the amount of the FEE DUE shown above and notify the Patent and Trademark Office of the change in status, or
  - B. If the status is the same, pay the FEE DUE shown above.
- If the SMALL ENTITY is shown as NO:
  - A. Pay FEE DUE shown above, or
  - B. File verified statement of Small Entity Status before, or with, payment of 1/2 the FEE DUE shown above.
- II. Part B-Issue Fee Transmittal should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by charge to deposit account, Part B Issue Fee Transmittal should be completed and returned. If you are charging the ISSUE FEE to your deposit account, section "4b" of Part B-Issue Fee Transmittal should be completed and an extra copy of the form should be submitted.
- III. All communications regarding this application must give application number and batch number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**

PATENT AND TRADEMARK OFFICE COPY

# Notice of Allowability

Application No.  
**08/925,326**

Applicant(s)  
**Lebaut et al.**

Examiner  
**Jane Oswecki**

Group Art Unit  
**1613**



All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course.

☒ This communication is responsive to Paper No. 13 filed June 17, 1999.

☒ The allowed claim(s) is/are 2 and 5-14 (now claims 3, 4-7, 1, 2 and 8-11 respectively).

☐ The drawings filed on \_\_\_\_\_ are acceptable.

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☒ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE **THREE MONTHS** FROM THE "DATE MAILED" of this Office action. Failure to timely comply will result in ABANDONMENT of this application. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

☐ Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION, PTO-152, which discloses that the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.

☐ Applicant MUST submit NEW FORMAL DRAWINGS

☐ because the originally filed drawings were declared by applicant to be informal.

☐ including changes required by the Notice of Draftsperson's Patent Drawing Review, PTO-948, attached hereto or to Paper No. \_\_\_\_\_.

☐ including changes required by the proposed drawing correction filed on \_\_\_\_\_, which has been approved by the examiner.

☐ including changes required by the attached Examiner's Amendment/Comment.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the reverse side of the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

☐ Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any response to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE/SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

☒ Interview Summary, PTO-413

☒ Examiner's Amendment/Comment

☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

☒ Examiner's Statement of Reasons for Allowance

JOHANN RICHTER  
SUPERVISORY PATENT EXAMINER  
(GROUP 1600)

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### **Examiner's Amendment**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Dr. Ann Hobbs on June 25, 1999.

The application has been amended as follows:

In the claims: Claim 2 at page 32, delete lines 10-11 and 15-16;

Claim 8 at page 33, line 34, delete "characterized in that" and insert in its place --wherein--.

### **Reasons for Allowance**

The following is an examiner's statement of reasons for allowance: with the amendments of claims 2, 8, 9, 10, 13 and 14, and upon reconsideration, the instant claims 2 and 5-14 are now in condition for allowance.

The closest prior art of record is U.S. 3,801,594 to Poletto et al. The applicants claim optionally substituted indol-3-glyoxylamide derivative compounds having pyridyl or quinolyl as a substituent in the R<sub>1</sub> position. These compounds have utility as immunodilator and anti-asthmatic agents. Poletto et al. teach optionally substituted 5-methoxyindole-3-glyoxylamide derivative compounds, but neither teach nor suggest the "R<sub>1</sub>" substituents of the instant application (U.S.

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3,801,594 at col. 8, lines 10-65, Table II). Thus, the instant claims 2, 5-7 and 9-14 are allowed over the prior art of record.

Since the optionally substituted indol-3-glyoxylamide derivative compounds of the instant application appear to be novel and nonobvious over the prior art of record, the requisite motivation for making them is lacking. Therefore, under the Court's holding in In re Ochiai et al., 37 U.S.P.Q.2d 1127 (CAFC 1995), a process commensurate in scope with the allowable subject matter for making these derivative compounds will also be allowed. Therefore, the instant claim 8 is allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

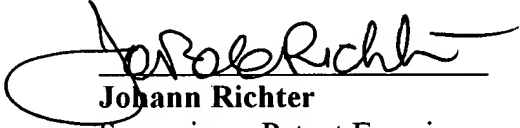
#### *Telephone Inquiry Contacts*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane Oswecki whose telephone number is (703)305-7152. The examiner can normally be reached Monday through Thursday from 7:30 AM to 5:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter, can be reached at (703)308-4532. The telephone number for this Group is (703)308-4556.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703)308-1235.

  
**Johann Richter**  
Supervisory Patent Examiner  
Group 1600

JCO  
25 June 1999